

FILED

SEP - 9 2005

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

No. C 05-3486 MHP

EULOGIO MARTIN,

Petitioner,

v.

JOHN MARSHALL, Warden,

Respondent.

ORDER TO SHOW CAUSE

On August 29, 2005, petitioner Eulogio Martin filed a petition for writ of habeas corpus under 28 U.S.C. section 2254 and a memorandum of points and authorities in support of the petition. Petitioner alleges that his due process and equal protection rights were violated when on September 24, 2003 former Governor Gray Davis reversed the Board of Prison Terms' ("Board") April 30, 2003 decision granting petitioner parole. Specifically, petitioner contends that the Board's determination that he was suitable for parole was based on a thorough application of the governing regulations and that Governor Davis's reversal was made absent evidentiary support and absent rational connection between the findings and conclusions contained in the record. Furthermore, petitioner argues that Governor Davis exceeded his authority by conducting what was in essence an independent "suitability" hearing.

Having reviewed the petition the court finds and orders the following:

1. Petitioner's claims warrant response from respondent.
2. The clerk shall serve by certified mail a copy of this Order to Show Cause and the contents of

1 the petition for writ of habeas corpus and the memorandum of points and authorities in this
2 action upon respondent and respondent's attorney, the Attorney General of the State of
3 California. The clerk also shall send a copy of this Order to petitioner.

4 3. Respondent must file and serve on petitioner, on or before **October 3, 2005**, an answer
5 conforming in all respects to Rule 5 of the Rules Governing Section 2254 Cases, showing
6 cause why a writ of habeas corpus should not be issued. Respondent must file with the
7 answer a copy of all portions of the state record that have been transcribed previously and
8 that are relevant to a determination of the issues presented by the petition.

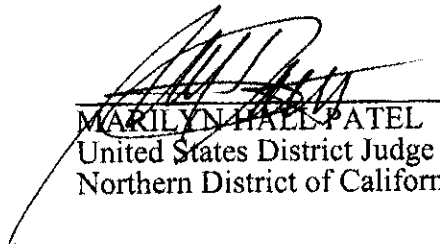
9 4. If petitioner wishes to respond to the answer, he must do so by filing a traverse with the
10 Court and serving it on respondent on or before **October 24, 2005**.

11 5. This matter is set down for hearing on **November 7, 2005 at 2:00 p.m.** in Courtroom 15,
12 18th Floor; 450 Golden Gate Avenue; San Francisco, California 94102.

13
14 IT IS SO ORDERED.

15
16 Date:

Sept. 9, 2005


MARILYN HALL PATEL
United States District Judge
Northern District of California